

***SPECIAL JOINT MEETING
TIPPECANOE COUNTY COUNCIL
TIPPECANOE COUNTY COMMISSIONERS
NOVEMBER 13, 2003***

The Tippecanoe County Council and Tippecanoe County Commissioners met in a special joint meeting on Thursday, November 13, 2003 at 11:00 A.M. in the Tippecanoe Room in the County Office Building. Council members present were: President Connie Basham, Vice President Ronald L. Fruitt, David S. Byers, Betty J. Michael, and Jeffrey A. Kemper. Commissioners present were: President KD Benson and Member John L. Knochel. Others present were Auditor Robert A. Plantenga, County Attorney David W. Luhman, Commissioners' Assistant Jennifer Weston, and Secretary Pauline E. Rohr. (Councilmember Jeffrey Kessler and Commissioner President Ruth E. Shedd were absent.)

President Benson called the County Commissioners' meeting to order.

President Basham called the County Council's meeting to order.

The meeting was held to gather information regarding Public Defender needs and the Public Defender Reimbursement Program. Neal Bowling, a representative from the State Public Defender's Office was present to answer questions.

Superior Court II Judge Tom Busch said the formation of the Public Defender Board is the stepping stone to State reimbursement. The Board will develop a Comprehensive Plan outlining how reduced caseloads will be accomplished.

The Judges and Public Defender submitted the following:

(quote)

Memo

To: Commissioners and County Council

From: Judges and Public Defender

Re: Public Defender Needs and Reimbursement Program

1. Request. We propose adding either
 - a. Eleven (11) new public defenders (part time) (see Table 5 and paragraph 3) or
 - b. Seven (7) new public defenders (part time) and one (1) new secretary (part time .75), two (2) new paralegals (one full time and one part time .75) and one (1) new investigator (part time .75) (see Table 8 and paragraph 3).
2. This proposal would permit us to qualify for state reimbursement of indigent defense costs at a rate of 40% when available. Estimated net reimbursement for 2004 would be 32%.
3. Qualification for reimbursement depends on exemption from caseload standards for attorneys who handle misdemeanor and juvenile cases exclusively. We have been advised that the exemption for misdemeanor cases is available and a phase in for juvenile cases is possible. (See Appendix D). We need to submit a letter from the juvenile court defender stating that his caseload does not require compliance. The public defender's office estimates that one (1) additional juvenile court attorney is required. We have also been advised that the juvenile standards are in the process of revision and that the revised standards are likely to require the addition of fewer attorneys.

4. In any event, we need five (5) new part time public defenders to make caseloads workable. The alternative is to pay pauper counsel at much greater expense.
5. Standards. The State Public Defender Commission has established the caseload standards set forth in Tables 1, 2 and 3.
6. Current public defender caseloads exceed these standards. See Table 4.
7. Four (4) additional part time public defenders would have been needed in 2002 and eight (8) in 2003 for compliance with state standards for felonies. See Table 5.
8. Nine (9) additional part time public defenders would be needed in 2002 and ten (10) in 2003 to comply with standards for misdemeanors and juvenile court. See Tables 6 and 7.
9. Alternatively, the county could meet standards by adding fewer attorneys and more support staff. See Table 8.
10. Assuming caseloads will continue to grow, more support staff will be needed to allow requested public defenders to handle increased caseloads under the standards. See Tables 9 and 10.
11. Estimated Financial Consequences to the County. A wide range of pauper counsel expenses is reimbursable, including salaries, rent, postage, telephone, expert witness expenses, pauper counsel fees for felonies, appeals, and support delinquency contempt.

A rough estimate of the net financial effect for the county, of adding eleven new attorneys in 2003 at a salary of \$30,000 would be an additional cost of \$145,820.00. (See Table 11 and Appendix B). At a salary of \$32,000 the additional cost would be \$167,957.00. (See Table 11 and Appendix B). Considering the fact that the county needs to add five new public defenders in any event, the real savings to the county would be \$43,403.00 at a 32K salary and \$53,625.00 at a 30K salary. (See Appendix B and Table 11).

To add seven attorneys, .75 secretaries, 1.75 paralegals, and .75 investigators, the additional costs to the county would be \$121,224.00 at an attorney salary of \$30,000.00 and \$134,802.00 at an attorney salary of \$32,000.00. The real savings to the county would be \$78,221.00 at a \$30,000.00 salary and \$75,758.00 at an attorney salary of \$30,000.00. (See Appendix B and Table 11).

12. Conclusion. The County will save approximately \$50,000.00 by adding the eleven new attorneys necessary to comply with the state caseload standards and receiving the reimbursement available from the state. The county would save approximately \$75,000.00 by adding seven new attorneys and adequate support staff.

(unquote)

➔ Councilmember Kathy Vernon entered.

Judge Busch said Amy Hutchison, the Public Defender, prefers option a. If the Public Defender Board is established by the Commissioners today, two members will be appointed by the judges and one by the Commissioners. The Board must submit a Comprehensive Plan to the Public Defender Commission by the hearing deadline on December 11, 2003 to be eligible for reimbursement for the 1st quarter of 2004.

Councilmember Kemper said the amount to put a plan in place is too costly to implement for January 2004.

Judge Busch said the Public Defender needs five additional attorneys but eleven new attorneys will put us in a position for reimbursement. He noted that, if we qualify, we won't receive the 1st quarter reimbursement until the 2nd quarter.

Attorney Luhman asked if there are reasons other than reimbursement for forming a Public Defender Board. Judge Busch said the Commissioners appoint the Public Defender, but the judges are the one who provide guidance. The Board will provide oversight of the Public Defender's Office and help with its administration. Judge Busch noted the Board will not be paid.

➔ Councilmember Michael left the meeting.

Mr. Bowling said if the County's Plan is approved in December and the County is operating in compliance, reimbursement will be received for the 1st quarter of 2004. He explained that, since the Fund operates at a deficit, the County may not get the full 40%. A rough annual average is 32%. He said 54 counties currently participate but more participants may reduce the share. It is possible the Legislature will put more money into the Fund.

President Benson thinks appointing a Public Defender Board is a positive.

Councilmember Byers asked if adding 11 new attorneys will cause Pauper Attorney costs to decrease. Mrs. Hutchison said there will still be a need for Pauper Attorneys because not all cases can be handled by a Public Defender. Judge Busch thinks Pauper Attorney costs will increase less with more Public Defenders. Since most inmates use pauper counsel, more attorneys will move them out of the jail sooner which will also save money.

Mr. Bowling said the County doesn't have to be in the program by the first of the year but can get into it any time since the Commission meets 4 times per year.

Auditor Plantenga interjected that adding 11 attorneys will be cheaper than adding 5 because we can get reimbursement for the 11. Councilmembers Kemper and Basham agreed the Council can't commit to appropriating funds today because the amount of uncommitted funds for 2004 is unknown.

Councilmember Vernon verified that the requested amounts include benefits. It was pointed out that the Public Defender's salary will increase to 90% of the Prosecutor's salary.

Commissioner Knochel said a decision will have to wait until the first of the year when the Council will know how much funding is available.

Mr. Bowling said defense expenditures such as salaries, Interpreters, Investigators, support staff plus some overhead are reimbursable.

Mrs. Hutchison said there is an immediate need for additional attorneys.

Councilmember Kemper suggested proceeding with the Board, the Plan, and creation of the positions so that it can be determined in January if funds are available for funding. Mr. Bowling responded that the Commission may not look favorably on approving the County's Plan if the funding and the County's commitment are uncertain. They may look favorably on a plan with a phase-in of personnel if the County has stated its commitment.

Judge Busch outlined ways the County can comply with the standards:

- Add no new Public Defender staff. The judges can comply by not assigning more than the standard amount of cases. This will mean spending more for Pauper Attorney.
- Add 5 new attorneys now regardless of compliance and add 5 more attorneys later with the number of cases the standards call for and we will be in compliance.
- Add 11 new attorneys to be in compliance with the 2003 projected case load. Should not be additional spending for Pauper Attorney.

He noted if the judges decide to send more cases to the Public Defender than the standard, there will be no reimbursement.

Mrs. Hutchison explained that the Commission wants a Plan that will make us in compliance all at one time. However, if the County can show it cannot afford to do that, the Commission might approve a Plan that starts with some of the courts and phases in the rest at a later date. Mr. Bowling said they approved such a phase in plan for Marion County.

ORDINANCE 2003-45-CM: Establishing Tippecanoe County Public Defender Board

Attorney Luhman read Ordinance 2003-45-CM, establishing the Tippecanoe County Public Defender Board, that will appear in its entirety in the Ordinance and Resolution Book in the County Auditor's Office.

- Commissioner Knochel moved to approve Ordinance 2003-45-CM on first reading, seconded by Commissioner Benson.

Auditor Plantenga recorded the vote:

KD Benson	Yes
John Knochel	Yes
Ruth Shedd	Absent

- The motion to approve Ordinance 2003-45-CM passed 2 – 0 on first reading.
- Commissioner Knochel moved to suspend the rules and allow a vote on second reading the same day presented, seconded by Commissioner Benson; motion carried.
- Commissioner Knochel moved to approve Ordinance 2003-45-CM on second reading, seconded by Commissioner Benson.

Auditor Plantenga recorded the vote:

John Knochel	Yes
KD Benson	Yes
Ruth Shedd	Absent

- The motion to approve Ordinance 2003-45-CM passed 2 – 0 on second and final reading.

President Benson said the Commissioners will make their appointment to the Board at their Monday, November 17th meeting.

ADJOURNMENT

Commissioner Knochel moved to adjourn the Commissioners' meeting, seconded by Commissioner Benson; motion carried.

Robert A. Plantenga, Auditor